

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

WP(C).No. 37188 of 2007(B)

PETITIONER:

**CHITHAMBARAM, S/O. SEKHARAN,
THERUVIL VEEDU, PANMANA, NOW RESIDING AT
GEETHANJILI, CONTONMENT NORTH, NEAR SANKERS
HOSPITAL, KOLLAM.**

**BY ADV. SRI. K.SIJU
SRI.PRATHEESH.P.**

RESPONDENT:

**STATE OF KERALA, REPRESENTED BY
THE DISTRICT COLLECTOR, KOLLAM.**

BY GOVERNMENT PLEADER SRI. BENNY VARGHESE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17/12/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

M.N.KRISHNAN, J

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W.P.(C) No.37188 OF 2007

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Dated this the 17th day of December 2007

JUDGMENT

This writ petition is preferred against the order of the Sub Court, Kollam in I.A.No.3231 of 2004 in LAR No.115/2001 whereby the learned Sub Judge answered the reference against the claimant for the reason that the claimant was absent and no vakalath was filed. An application to review the same was filed which also ended in dismissal holding that no steps were taken. It is a settled position of law that a reference cannot be dismissed for default. It is equally settled that even in the absence of a party, the court is expected to apply its mind to find out whether the compensation awarded is proper or not. It has not been done in this case. Therefore, I feel an opportunity must be given to the claimant to put forward his case on merit. So, I set aside the order passed by the learned Sub Judge in LAR No.115 of 2001 directing him to restore it and proceed in accordance with law. I also make it very clear that if there are no sufficient reasons for the non-prosecution, the court can also consider whether the claimant is entitled to claim interest from the date of answering the reference on account of the

default of the claimant till restoration.

Parties are directed to appear before the court below on 14.1.2008.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-